1787.

SUPREME COURT OF THE UNITED STATES.

No. 86.

THE UNITED STATES, APPELLANT,

VERSUS

JOSEPH M. HERNANDEZ.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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Before the honorable the judge of the superior court for the eastern district of Florida, and specially authorized by law to receive and adjudicate claims and titles to land in the district of East Florida:

Be it remembered, that, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Joseph M. Hernandez, by John Lee Williams, his attorney, brought and filed in the clerk's office of the superior court for the eastern district of Florida his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

To the honorable Joseph L. Smith, judge of the superior court of the eastern district of Florida:

Petition for confirmation.

The petition of Joseph M. Hernandez respectfully shows: That he claims title to twenty thousand acres of land in three distinct tracts, the first situated on both sides of the Great Salt spring and creek which enters the west side of St. George's lake, containing originally ten thousand acres, seven hundred of which have since been sold from the northeast corner of the said tract to Andrew Burgevin. The said tract is bounded east by Lake St. George; from thence south eighty-five degrees west, two hundred chains; thence north five degrees east, sixty chains; thence north eighty five degrees west, two hundred and seventy chains, to a pine; thence north five degrees east, two hundred and eighty chains, to a pine; thence east three hundred and seventy chains, to the lake aforesaid. The second tract is situate on the east side of St. John's river, at a place called the Horse Landing, and contained originally five thousand acres, seven hundred of which have been sold from the southwest corner to Andrew Burgevin. This tract commences on the east side of the river St. Johns, near Buffalo Bluff, and runs thence north seventy-two degrees east, one hundred and forty-five chains, to a pine, marked H, standing on the western bank of a creek; thence south thirty-one degrees east, two hundred and ninety-six chains, to a marked H; thence south seventy-two degrees west, two hundred and five chains, to a pine, marked H, standing on the eastern bank of the river St. Johns. The third tract is situate on the opposite side of the river St. Johns, and bounded as follows, to wit, commencing on the west bank of the river St. Johns, near Hambly's old store, all within the jurisdiction of this court.

And your petitioner further shows that the above described grant of lands was made to him in consideration of great sacrifices made by him, and of many services rendered to the Government of East Florida, at a time when the existence of the province was in jeopardy by an insurrection of its own inhabitants, and the interference of a neighboring power. The grant was made to him on the eighteenth day of November, in the year of our Lord one thousand eight hundred and seventeen. That an order was obtained, and a survey made about the fourth day of April, in the year of our Lord one thousand eight hundred and twenty-one, about which time the royal titles were issued to your petitioner by Governor Coppinger, in pursuance of an order of his Catholic Majesty, the King of Spain. All which facts will appear, reference being had to the documents herewith exhibited.

And your petitioner further shows, that this claim was submitted to the Board of Commissioners appointed to settle the title to lands in East Florida, under the act of Congress in such case made and provided, entitled "An act amending an act, and supplementary to an act for ascertaining claims and titles to lands in the Territory of Florida." But the said board, doubting the power of the governors of Florida to make grant to this extent, recommended the claim to Congress only on condition that such powers were held by the governors aforesaid.

Your petitioner begs leave to charge that the said governors ever exercised these powers: that their acts were uniformly recognized and confirmed by his Catholic Majesty: that a royal title is a judicial act of the King of Spain, not to be controverted by a Government who has, by the treaty made with Spain on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, bound herself to ratify and

confirm all grants of land made before the 24th January, 1818, to the same extent as that they would be valid if the territory had remained under the dominion of his Catholic Majesty.

And he further states, that this claim is embraced in said treaty, has not been reported as either antedated nor forged, nor has any final judicial decision been had thereon, nor has there been any legal bar to the same.

Your petitioner therefore prays that the validity of his title may be inquired of by this honorable court; that a copy of this petition, with a citation, may be served on Thomas Douglass, esquire, attorney for the United States in said district, and the United States be made a party thereunto; and, on a final hearing of the cause, that a decree may be entered confirming to your petitioner the title to the lands in question. And your petitioner will ever pray, &c.

JOHN LEE WILLIAMS,
Attorney for Petitioner.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district, and the return of the said marshal thereon is in the words and figures following, to wit: "Served on Thomas Douglass, esquire, U. States' attorney, 20th May, 1829.

"WATERS SMITH, *Marshal.*"

And afterwards, to wit, on the first day of July, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglass, esquire, United States' attorney for the district of East Florida, brought and filed in the clerk's office aforesaid his answer to the said petition; which said answer is in the words and figures following, to wit:

Superior Court, November term, 1829.

THE UNITED STATES OF AMERICA,
ats.
JOSEPH M. HERNANDEZ.

Answer of U. S. att'y.

The answer of Thomas Douglass, United States' attorney for the district of East Florida, to the petition or bill of complaint of Joseph M. Hernandez. The said attorney, in the name, and for and on behalf of the same United States, saving and reserving to them now, and all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities in the said petition or bill of complaint contained, for answer thereunto, or to so much thereof as it is material and necessary for them to answer unto, answereth and saith, that whether any such grant of lands was ever made by Governor Coppinger to the said Joseph M. Hernandez for twenty thousand acres of land in three distinct tracts, as is by him alleged and described in his said petition or bill of complaint, or whether any such surveys, as are therein mentioned and described were ever made, or any such royal titles were ever issued as therein stated and alleged, or whether the said Joseph M. Hernandez ever made any such great sacrifices, or rendered any such services to the Government of East Florida at the time in said petition or bill of complaint alleged, or at any other time, as are in the said petition or bill of complaint mentioned and set forth, and in consideration of which it is in said petition or bill of complaint alleged that the said supposed grant of lands was made to the said Joseph M. Hernandez, this respondent has no knowledge, except what he

has derived from a perusal of the said petition or bill of complaint, and of the exhibits thereunto annexed, and cannot, therefore, either admit or deny the same, but respectfully prays this honorable court to require of the said Joseph M. Hernandez due proof of the making and execution of the said supposed grant, and of the said surveys, and of the issuing of the said royal titles, (if indeed any such grant of lands or surveys were ever made, and any such royal titles issued;) and, also, that he may be required to prove the making of the great sacrifices, and the performance of the many services aforesaid, (if any such sacrifices were by him made, or services performed,) and of all the other matters and things in the said petition or bill of complaint mentioned, alleged, and set forth, as they are therein stated, according to law and the usages of courts of equity.

And this respondent avers that, if any such grant of lands was ever made by the said Governor Coppinger to the said Joseph M. Hernandez, or any such royal titles issued, which is not admitted, it was made, and the said royal titles issued contrary to, and in violation of, the laws, ordinances, and royal regulations of the Government of Spain, which were in force in the province of East Florida at the time when the said supposed grant is alleged to have been made as aforesaid, providing for the granting of lands in its provinces, of which said provinces the said East Florida was one, and without any power or authority on the part of the said Governor Coppinger to make it; and that it was (if made as aforesaid,) never approved by the King of Spain, and that it was and is wholly null and void; and, farther, that no power had been conferred upon the said Governor Coppinger at the time when the said supposed grant is alleged to have been made as aforesaid, to make grants of land in said province of East Florida of the magnitude and description of the one now claimed by the said Joseph M. Hernandez in this suit: And this respondent further prays that the said Joseph M. Hernandez may be required to show and prove the specific powers which had at the time when the said supposed grant is alleged to have been made as aforesaid been conferred by the Government of Spain upon the said Governor Coppinger to make grants of land in the said province of East Florida, and particularly that he may be required to show and prove the specific powers under which the said Governor Coppinger claimed to act in making the said supposed grant of twenty thousand acres of land to the said Joseph M. Hernandez as aforesaid.

And this respondent further saith that, at the time when the said supposed grant is alleged to have been made as aforesaid, it was, and for a long space of time had been, the fixed and settled policy of the Government of Spain aforesaid to parcel out its colonial domain in reference solely to the object of increasing the population of its provinces; and that, according to that policy, grants for the purpose of speculation were never tolerated by said Government, and that the said supposed grant of lands (if obtained at all,) was obtained for the purpose of speculation only.

And this respondent farther saith, that the said Joseph M. Hernandez was, at the time when the said supposed grant is alleged to have been made as aforesaid, a Spaniard and a subject of the King of Spain.

And this respondent admits that the said Joseph M. Hernandez presented his claim for the lands abovementioned to the Board of Commissioners in the said petition or bill of complaint aforesaid mentioned, and that the said Board of Commissioners reported thereon as is therein stated. But this respondent denies that the said governors always exercised these powers, and that their acts were uniformly recognized and confirmed by his Catholic

Majesty, or that a royal title is a judicial act of the King of Spain not to be controlled by a Government who has, by the treaty made with Spain on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, bound itself to ratify and confirm all grants of land made before the 24th day of January, 1818, to same extent as they would be valid if the Territory had remained under the dominion of his Catholic Majesty; and aver that, on the contrary, the said governor seldom or never attempted to exercise any such power until a short time before the transfer of the Floridas to the United States, nor until the said Spanish Government, by internal commotion and revolution within its dominions, and the invasion of the Kingdom of Spain by foreign armies, became unable to bestow that attention upon the conduct of the governors of its trans-Atlantic provinces which the interest of said Government required, nor until it became, from various causes, almost morally certain (and a general expectation was excited,) that the said Floridas would soon be transferred to the same United States.

And this respondent further avers that, if any such royal titles were issued by the said Governor Coppinger to the said Joseph M. Hernandez on the fourth day of April, in the year of our Lord one thousand eight hundred and twenty-one, they were rendered entirely null and void by the provisions of the latter clause of the eighth article of the treaty of the twenty-second day of February, 1819, by which the Floridas were ceded to the United States aforesaid.

And this respondent further saith that, if the said grant was made as is in the said petition or bill of complaint alleged, and the said Governor Coppinger was invested by the Spanish Government aforesaid with competent powers to make it, (which is not admitted) the said Joseph M. Hernandez has, by a total failure and neglect to occupy, improve, or cultivate the said tract of land for the space of more than eleven years last past, totally forfeited and lost all claim (if any he ever had,) thereto. And this respondent suggests that the said grant, if made at all, was made since the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and eighteen; and that, (if otherwise good and valid,) it is rendered null and void by the provisions of the latter clause of the eighth article of the treaty between the same United States and his Catholic Majesty the King of Spain, of the twenty second of February, 1819.

And now, having fully answered all the matters and things in the said petition, or bill of complaint contained and alleged, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOMAS DOUGLASS,
United States' Attorney, &c.

And afterwards, to wit, on the thirtieth day of July, in the year of our Lord one thousand eight hundred and thirty, the said Joseph M. Hernandez, by his said attorney, brought and filed in the clerk's office aforesaid his replication; which said replication is in the words and figures following, to wit:

Superior Court of the Eastern District of Florida.

COUNTY OF ST. JOHNS, to wit:

The replication of Joseph M. Hernandez to the answer of Thomas Douglass, esquire, attorney of the United States, defendants:

Replication.

And this replicant, saving and reserving to himself all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies in the answer of the said defendant, for replication thereunto, says that he does and will aver, maintain, and prove, his said bill to be true, certain, and sufficient in the law to be answered unto by the said defendant, and that the answer thereto is very uncertain, evasive, and insufficient in the law to be replied unto by this replicant; without that, that any other matter or thing in the said answer alleged, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this replicant is ready to aver, maintain and prove, as this honorable court shall order and direct; and hereby prays, as in and by his said bill he hath already prayed, &c.

JOHN LEE WILLIAMS,
for Comp't.

Documents offered and received in evidence in this case on behalf of the said claimants, being translations made by the translator and interpreter of this court from copies furnished and duly certified by the keeper of the public archives for East Florida; which said documents are numbered from one to seven, inclusive, as follows, to wit:

No. 1.

TRANSLATION.

Memorial of Hernandez to Spanish Government for grant.

SENOR GOVERNOR: Don Jose Mariano Hernandez, inhabitant and planter of this province, with all respect states to your excellency, that, although on the twenty-fifth of May, one thousand eight hundred and sixteen, your excellency had the goodness to grant him one thousand eight hundred and ninety acres of land, agreeable to a list of slaves he presented, yet this Government having shown itself liberal in the distribution of lands, also because its powers are unlimited, and that it knows well what a small remuneration it is to confine itself strictly to the particular rule made by the predecessor of your excellency, Senor Don Enrique White, which has been altered whenever it was found convenient to do so, and at the will of his successors in the command, there being no royal order which limits to a precise number of acres the distribution of lands, in virtue of which they have been distributed with distinct variations, attending to the quality and services of the persons on which the laws make a particular recommendation, under the protection of which concessions have been made to other individuals not more deserving than your memorialist, since he has not only served in defence of the province, with arms in his hands, as he has proved, but he is also a native of it, son of a father who has served his Majesty many years, and who was one of the first settlers of that said province; which circumstance is very commendable by the laws: besides, that your memorialist, from having an increased number of negroes to employ in the cultivation of the land, and their children in numbers, so that, considering that they succes-

sively increase his strength for the cultivation of this said province, he is entitled to the concession and grant of a considerable number of acres: this being attended to, that now being thriving, and in a course of industry and labor, he does not think of ever abandoning this soil, in which he desires to have a security that, when some lands are worn out, he may turn to work others, beginning to clear them with all speed and diligence, as circumstances permit, and agreeably to the increase he may have in the number of his hands and family, which is considerable, as his crops produce from eight to ten thousand dollars a year, with the value of which he will increase his force, both in slaves and cattle, and breeding stock, to which he desires also to apply some land: wherefore, he prays your excellency to be pleased to grant him, in absolute property and dominion, twenty thousand acres of land, to wit, ten thousand on both banks of the river St. Johns, between the place known by the name of Buffalo's bluff and another place named Mount Tucker, and the remaining ten thousand on the west side of Lake St. George, the land to be divided into two parts by a brook or creek which discharges itself into said lake, named Salt spring, about ten miles, more or less, to the north of another creek, named Silver creek, for the survey and demarcation of which your memorialist will apply to an intelligent person, who will accompany it, during the occupation of the surveyor general, Don George Clarke, and the difficulties which present themselves by the troubles of the province, for the purpose of having a plat, with the divisions of the lands, for the greater convenience which he will then present in due form, in order that the customary titles may be delivered to him. A favor which he hopes to obtain from the justice of your excellency. St. Augustine, Florida, the 18th of November, 1817.

JOSEPH M. HERNANDEZ.

Grant to Hernandez of 20,000 acres.

Decree.—St. Augustine, 18th of November, 1817. In attention to what the interested party sets forth and represents, and in virtue of the powers which are annexed to my authority, also conforming to the laws and royal dispositions on the distribution of lands, the memorialist being one of those settlers who most contributes to the improvement of this province, I grant him, in the name of his Majesty, and of his royal justice which I administer, the twenty thousand acres of land which he requests, in the places which he points out in his memorial, that he may possess them in absolute property and dominion. And for confirmation and his security, until titles in form be delivered him, which will be as soon as he shall have accomplished the survey and demarcation of said lands by a surveyor, let the proceedings be lodged in the archives of the notary, and an authenticated copy given to the interested.

COPPINGER.

No. 2.

TRANSLATION.

Petition for & order of survey.

To his excellency the Governor: Don Joseph Mariano Hernandez, a resident of this city, with due respect, represents to your excellency, that he has agreed with Don Andres Burgevin, private surveyor, for the survey and delineation of twenty thousand acres of land, which your excellency had the goodness to grant him, in absolute property, as appears by the document of concession hereto annexed; ten thousand of which on both margins of the river St. Johns, between the place known by the name of Buffalo's bluff, and another place

called Mount Tucker; and the other ten thousand on the west bank of St. George's lake: this tract to be divided equally by a spring which empties into said lake, called Salt spring, about ten miles, more or less, to the north of another spring known by the name of Silver Spring. Wherefore, he prays your excellency will be pleased to authorize said Burgevin to proceed to make said survey and delineation, and to make plats of the same agreeably to the aforesaid concession, in order that the customary titles for said land be extended; a favor which your petitioner hopes to receive from the justice of your excellency. St. Augustine of Florida, 5th December, 1820.

JOSEPH M. HERNANDEZ.

St. Augustine, 5th December, 1820. As he solicits, but previous to which the acceptation and oath of Don Andres Burgevin be taken, and citations of contiguous proprietors be made.

COPPINGER.

Before me:

JUAN DE ENTRALGO, *Gov't Notary.*

In St. Augustine, on the same day, month, and year, I notified the preceding decree to Don Jose Mariano Hernandez, which I certify.

ENTRALGO.

At St. Augustine, on the same day, month, and year, I notified Don Andres Burgevin of his appointment of surveyor, to which he answered that he would and did accept it, promising, under oath, according to law, to perform well and faithfully the trust, according to the best of his understanding, and subscribed his name to the same.

ANDRES BURGEVIN.

Before me:

JUAN DE ENTRALGO.

No. 3.

TRANSLATION.

Certificate of survey of 10,000 acres.

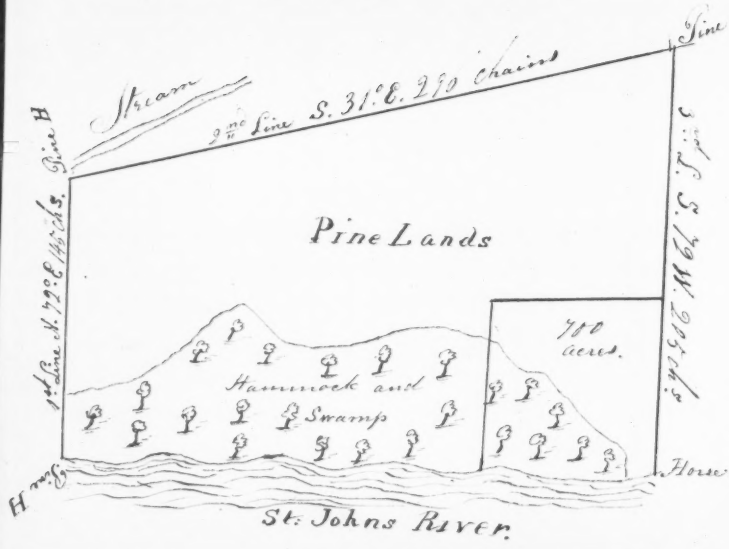
Don Andrew Burgevin, subject of his Catholic Majesty in East Florida, and private surveyor:

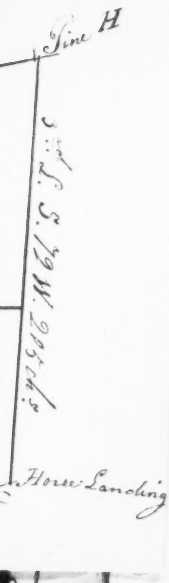
I certify that, by order of this Government, and decree made in favor of the interested, *of the interested*, the fifth day of December, one thousand eight hundred and twenty, I have surveyed, in favor of Don Jose Hernandez, a piece of land, which contains ten thousand acres, at a place known as White spring, on the west side of the lake named Lake George, all being agreeably to the annexed plat; for the confirmation of which I sign these presents, in St. Augustine, Florida, the 4th of April, 1821.

ANDRES BURGEVIN.

Pam

No. 4.


Stream
2nd Line S. 31° E. 2.50 chains
Pine Lands
1st Line N. 22° E. 1.50 chains
Pine H
Pine
2nd Line S. 69° W. 2.25 chs.
710 acres.
Hammock and
Swamp
Hous
St. Johns River



No. 4.

TRANSLATION.

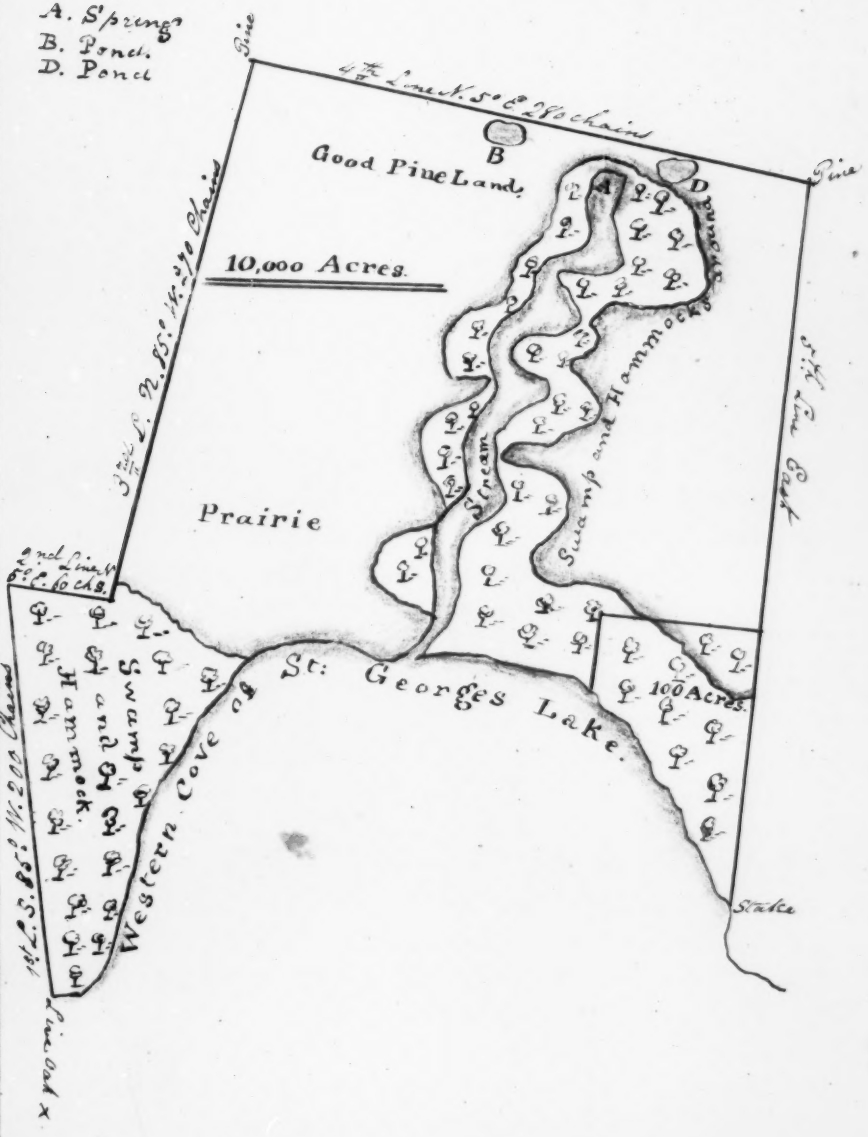
Don Andrew Burgevin, subject of his Majesty in East Florida, and private surveyor:

Certificate of survey of 5,000 acres.

I certify, that, by order of this Government, and decree received in favor of Don Jose Hernandez, the fifth of December, one thousand eight hundred and twenty, I have measured for the interested a piece of land which contains five thousand acres, on the east side of the river St. Johns, between Buffalo bluff and Mount Tucker, and being all agreeable to the accompanying plat; for the confirmation of which I sign these presents, in St. Augustine, Florida, 4th April, 1821. This is a copy of the original, to which I refer.

ANDRES BURGEVIN.

No. 3.


A. Springs
B. Pond.
D. Pond
Pine
4th Concl. S.E. 2 Mchains
Pine
B
Good Pine Land.
A
D
Swamp
10,000 Acres.
1st Concl. N. 85° W. 320 Chains
Stream
Swamp and Hammock
Prairie
2nd Line S. 6° E. 160 Chs.
Pine
3rd Line East
St: Georges Lake.
100 Acres.
Swamp and Hammock.
1st Concl. S. 85° W. 200 Chains
Western Cove of
Stake
Pine

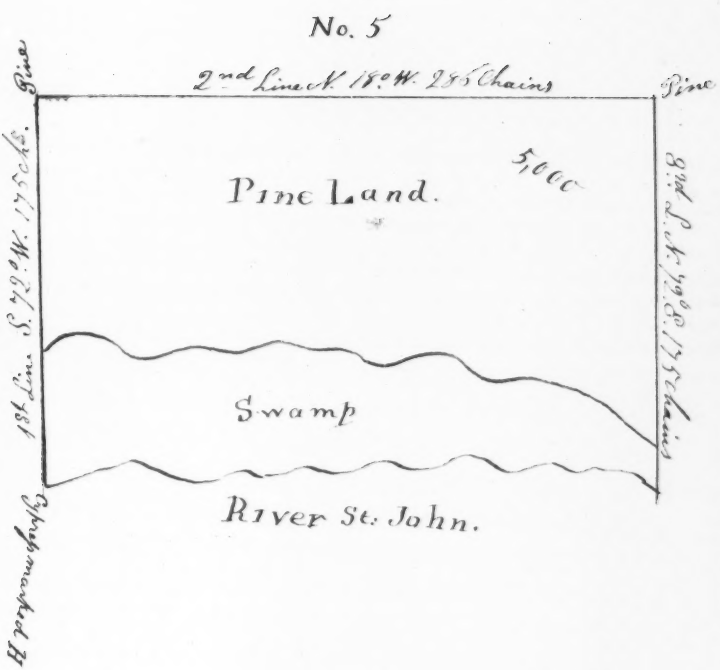
No. 5.

TRANSLATION.

Certificate of survey of other 5,000 acres.

Don Andrew Burgevin, subject of his Catholic Majesty, in the province of East Florida, and private surveyor, do certify that, by an order of this Government, and a decree made in favor of the interested the 5th day of December, 1820, I have measured in favor of Don Jose M. Hernandez a piece of land which contains five thousand acres, on the west side of the river St. Johns, in the place where Panton and Leslie had their store, and known as the (Old store,) and the lands which the widow Penguey planted, and ends on the south in front of the Horse landing—all conformable to the annexed plat; to confirm which I sign these presents. St. Augustine, Florida, 5th April, 1821.

ANDRES BURGEVIN.


No. 5
2nd Line N. 18° W. 285 Chains
Pine
Pine Land.
5,000
Swamp
River St. John.
1st Line S. 72° W. 172 Chs.
Pine
Unappropriated
3rd Line S. 18° E. 175 Chains

No. 6.

TRANSLATION.

Royal title to Hernandez for 10,000 acres—one tract.

Don Jose Coppinger, colonel of the royal armies, military governor, civil chief, and subdelegate of the national domain, in the city of St. Augustine of Florida, and of the province thereof: Whereas in the royal order of the twenty-ninth of March, of one thousand eight hundred and fifteen, his Majesty has been pleased to approve the bounties and rewards proposed by my predecessor, Brigadier Don Sebastian Kindelan, in behalf of the officers and soldiers of the regular and of the militia corps, and of the other individuals of this province who contributed to the defence thereof in rebellious times; and whereas one of the said favors consists in the distribution of vacant lands; and, as Don Jose Mariano Hernandez has presented himself as one of the individuals who, with arms in hand, contributed to the said defence, and in attention to the reasons and foundations exposed in his petition of the eighteenth of November, one thousand eight hundred and seventeen, and in consequence of the authority which I exercise, and, also, in conformity to the laws and the royal dispositions providing to reward with distinction those that are indebted thereto, in attention to the quality of the services rendered, and of the persons who render them, I thought proper, by my decree of the same day, to accede to his petition soliciting that I would grant him twenty thousand acres of land, divided in distinct places; one of these being as follows: ten thousand acres on the west bank of the Lake George, so that the tract be divided in two parts by a stream or creek named Salt spring, which empties itself in the said lake about ten miles more or less distant north of another stream called Silver creek, the survey of which is in the following form, according to the plat formed by the private surveyor, Don Andres Burgevin, commissioned to that effect by my decree of the fifth of December, one thousand eight hundred and twenty, pursuant to the petition of the interested party. The first line runs south eighty-five degrees west—it commences at a live oak marked +, and measures two hundred chains; the second line runs north five degrees, east sixty chains; the third line runs north eighty-five degrees, west two hundred and seventy chains, terminating at a pine; the fourth line runs north five degrees east—it commences at the said pine, and terminates at another, and measures two hundred and eighty chains; and the fifth line runs east, and measures three hundred and seventy chains—the whole of which is exhibited more at large, and appears from the expedient formed for said concession, which exists in the archives of the present notary. Therefore, I have determined to grant, as in the name of his Majesty and of his royal justice, which I administer, I do grant to the said Don Jose Mariano Hernandez the mentioned ten thousand acres of land in the designated place, without prejudice to a third party, for himself, his heirs, and successors, in absolute property, and to issue to him, as I do by these presents issue, the corresponding title by which I separate the national domain from the right and dominion which it had to the said land, and I cede and transfer it to the said Don Jose Mariano Hernandez, his heirs and successors, in order that, in consequence thereof, they possess it as their own, use and enjoy it without any incumbrance whatever, with all its inlets and outlets, uses, customs, rights and services, which it has had, has, and in fact and of right belong and may relate to it,

and in order that, if they see fit, they may sell, cede, transfer, and alienate the same to their best advantages. To the whole of which I interpose my authority judicial, as far as I can and of right ought, in virtue of the preceding expose, and of the sovereign will. Given under my signature, and countersigned by the subscribed notary of the Government and of the national domain, in the said city of St. Augustine of Florida, ninth April, one thousand eight hundred and twenty-one.

JOSE COPPINGER.

By order of his Lordship:

JUAN DE ENTRALGO,
Notary of the Government and of the National Domain.

No. 7.

TRANSLATION.

Title of property in favor of Don Jose Mariano Hernandez for 10,000 acres of land, situated on both banks of the river St. John.

Royal title to Hernandez for 10,000 acres, in two tracts.

Don Jose Coppinger, colonel of the national armies, military governor, civil chief, and subdelegate of the national domain in this city of St. Augustine of Florida, and of the province thereof:

Whereas, in a royal order of the twenty-ninth of March, one thousand eight hundred and fifteen, his Majesty has been pleased to approve the bounties and rewards proposed by my predecessor, Brigadier Don Sebastian Kindelan, for the officers and soldiers of the regular and militia corps, and other individuals of this province who contributed to the defence thereof in rebellious times; and whereas one of said favors consists in the distribution of vacant lands, and as Don Jose Mariano Hernandez has presented himself as one of the individuals who, with arms in hand, have contributed to the said defence, and in attention to the reasons and foundations exposed in his memorial of the eighteenth of November, one thousand eight hundred and seventeen, and in consequence of the authority which I exercise, and also conciliating the laws and the royal dispositions which provide rewards for those who are indebted to them in proportion to the quality of the services rendered, and of the persons who have rendered them, I thought proper, by my decree of the same day, to accede to his petition soliciting that I would grant him twenty thousand acres of land in distinct places, one of which being the following: ten thousand acres of land on both banks of the river St. John, between the place known by the name of Buffalo bluff and the place called Mount Tucker, which were surveyed by the private surveyor, Don Andres Burgevin, in virtue of the faculty which I conferred upon him to that effect, by my decree of the fifth of December, one thousand eight hundred and twenty, issued at the instance of the interested party, and according to the plats formed by said surveyor, are as follows: the five thousand on the eastern margin of the river St. Johns, between the mentioned Buffalo bluff and Mount Tucker, the first line running north, seventy-two degrees east—it commences at the margin of the said river, and terminates at a pine marked H, and measures one hundred and forty-five chains; the second line runs south, thirty-one degrees east—it measures two hundred and ninety-six chains, and terminates at another

pine with the same mark; and the third line runs south, seventy-two degrees west, and measures two hundred and five chains, and terminates at another pine with the same mark; and the other five thousand acres are located west of the said river, between the place where Panton, Leslie & Co. had an establishment called the Old store, and the lands cultivated by Penguey's widow, the first line of which runs south seventy-two degrees west—it begins at a cypress marked H, and terminates at another, and measures one hundred and seventy-five chains; the second line runs north eighteen degrees west—it commences at the said last line, and terminates at another, and measures two hundred and eighty-six chains; and the third line runs north, seventy-two degrees east—it measures one hundred and seventy-five chains: the whole of which appears more at large in the expedient relating thereto which exists in the archives of the notary of the Government. Therefore, I have determined to grant, as in the name of his Majesty and of his royal justice which I administer, I do grant to the said Don Jose M. Hernandez the mentioned ten thousand acres in the designated places, without prejudice of a third party, for himself, his heirs and successors, in absolute property, and to issue to him, as I do hereby issue, the corresponding title by which I separate the national domain from the right and dominion which it had to the said tracts of land; and I cede and transfer them to the said Don Jose Mariano Hernandez, his heirs and successors, in order that, in consequence thereof, they possess them as their own, use and enjoy them without any incumbrance whatever, with all their inlets and outlets, uses and customs, rights and services, which they have had, have, and in fact and of right belong and may relate to them, and in order that, if they see fit, they may sell, cede, transfer and alienate the same to their best advantage. To the whole of which I interpose my authority judicial, as far as I can and of right ought, in virtue of the preceding expose, and of the sovereign will. Given under my signature, and countersigned by the subscribed notary of the Government and of the royal domain, in this said city of St. Augustine of Florida, on the ninth of April, one thousand eight hundred and twenty-one.

JOSE COPPINGER.

By order of his Lordship:

JUAN DE ENTRALGO,
Notary of the Government and of the National Domain.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-two, to which term this cause had come by regular continuance, to wit, on Wednesday, the ninth day of said term, and the sixteenth day of said month, the following *decree of confirmation* was entered of record in this cause, to wit:

JOSEPH M. HERNANDEZ,
against
THE UNITED STATES OF AMERICA.
} *Land claim*, 20,000 *acres.*

Decree of confirmation.

Whereas Joseph M. Hernandez did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the 21st day of May, 1829, file his petition for the confirmation of certain lands

therein mentioned, in the clerk's office of the superior court for the eastern district of Florida; and whereas the attorney of the United States for this district, did duly appear and answer said petition, and this cause coming on to be heard this day, the said claimant, by his counsel, offered in evidence a copy from the office of the keeper of the public archives of the original grant on which this claim is founded, to the receiving of which in evidence the said attorney for the United States objected, alleging that the original grant *itself* should be produced, and its *execution* proved, before it could be admitted in evidence, and that the original only could be received in evidence; which objection was overruled by the court, and the copy from the office of the keeper of the public archives, certified according to law, was ordered to be received in evidence; and the court further ordered that though, by the express statute of this Territory, copies are to be received in evidence, yet, in cases where either the claimant or the United States shall suggest that the *original* in the office of the keeper of the public archives is deemed necessary to be produced in court, on motion therefor, a subpœna will be issued by order of the court to the said keeper, to appear and produce the said original in court for due examination: therefore, the said claimant further offered in evidence the papers or documents issued herein by Don Jose Coppinger, governor, &c., and dated the ninth day of April, 1821, in further support of this claim to said land, to the receiving of which in evidence the attorney for the United States objected, alleging that the same bears date after the 24th day of January, 1818, which objection the court overruled, and admitted said papers or documents in evidence, considering them merely as evidence of subsequent proceedings to ascertain and locate the lands previously granted, and not the grant itself, which, as appears to the court, was made on the eighteenth day of November, one thousand eight hundred and seventeen; and such proceedings being had herein as that this claim was submitted to the court for its decree thereon, and the said court having examined the claim of the said petitioner, and the answer of the attorney of the United States, together with the evidence filed herein, and having maturely considered the same, doth *order, adjudge*, and *decree*, that this claim is *valid*, and that, in accordance with the laws and customs of Spain, and under and by virtue of the late treaty of amity, settlement, and limits, between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821, and under and by virtue of the laws of nations and of the United States, it is hereby *confirmed, adjudged*, and *decreed* to the said claimant to the extent, and agreeably to the boundaries as in the three surveys of the said land made by Don Andrew Burgevin, and dated the 4th and 5th day of April, 1821, and filed herein, is set forth, to wit: The first survey is of ten thousand acres, situated at a place known as Salt springs, on the west side of the lake named Lake George, and has the following lines, to wit: the first line commences at a live oak tree on the bank of the western cove of Lake George, and runs south eighty-five degrees, west two hundred chains; the second line runs north five degrees, east sixty chains; the third line runs north eighty-five degrees, west two hundred and seventy chains, to a pine tree; the fourth line runs from said pine north five degrees, east two hundred and eighty chains, to another pine; the fifth line runs from said pine to a stake on the western cove of Lake George. The second survey is of five thousand acres on the east side of the river St. Johns, between Buffalo bluff and Mount Tucker, and has the

following lines, to wit: the first line runs from the bank of the river St. Johns north seventy-two degrees, east one hundred and forty-five chains, to a pine marked H.; the second line runs from said pine south thirty-one degrees, east two hundred and ninety six chains, to another pine marked H.; the third line begins at the said last mentioned pine, and runs south seventy-two degrees, east two hundred and five chains, to a pine at the Horse landing on the banks of the river St. Johns, marked H.; the third survey is of five thousand acres on the west side of the river St. Johns, in the place where Panton and Leslie had their store, and known as the Old store, and the lands which the widow Penguey planted, and has the following lines, to wit: the first line runs south seventy-two degrees, west one hundred and seventy-five chains, from a cypress on the bank of the river St. Johns, marked H, to a pine tree; the second line runs north eighteen degrees, west two hundred and eighty-six chains, to another pine; the third line runs north seventy-two degrees, east one hundred and seventy-five chains, to a place called the Old store, on the bank of the river St. Johns.

And afterwards, before the superior court for the eastern district of Florida, holden at the court house in the city of St. Augustine, at the term of October, in the year of our Lord one thousand eight hundred and thirty-two, to wit, on Friday the fifth day of said term, and the fifth of said month, the following appeal was entered of record in this case, to wit:

JOSEPH M. HERNANDEZ, *against* THE UNITED STATES OF AMERICA } *Land claim*, 20,000 *acres.*

Appeal. This day came Thomas Douglass, esquire, attorney of the United States for this district, and moved the court that an appeal be granted in this case, on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; which is granted accordingly.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Tuesday the nineteenth day of said term, and the eleventh day of June, the following entry of record was made in this cause, to wit:

THE UNITED STATES, *ats* JOSEPH M. HERNANDEZ. } *Land claim*, 20,000 *acres.*

Revival of appeal. Now, on this day came Thomas Douglass, esquire, United States' attorney for the district of East Florida, and suggests to the court now here that, since the granting of the appeal in the above cause to the Supreme Court of the United States, a term of said court has intervened, and that the record herein has not been sent up to the said court; wherefore the said attorney, on behalf of the same United States, prays that the said appeal may be revived, and the order therefor extended, and a copy of the record in said cause, duly certified, may be sent up to the said Supreme Court before the first day of the next term thereof, to be holden on the second